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Application No. 03 791 327.4 - 1227	Ref. NIN030808pep	Date 10.04.2006
Applicant NISSAN MOTOR COMPANY, LIMITED		

#### Communication pursuant to Article 96(2) EPC

The examination of the above-identified application has revealed that it does not meet the requirements of the European Patent Convention for the reasons enclosed herewith. If the deficiencies indicated are not rectified the application may be refused pursuant to Article 97(1) EPC.

You are invited to file your observations and insofar as the deficiencies are such as to be rectifiable, to correct the indicated deficiencies within a period

**of 4 months**

from the notification of this communication, this period being computed in accordance with Rules 78(2) and 83(2) and (4) EPC.

One set of amendments to the description, claims and drawings is to be filed within the said period on separate sheets (Rule 36(1) EPC).

**Failure to comply with this invitation in due time will result in the application being deemed to be withdrawn (Article 96(3) EPC).**



Crottaz, O  
Primary Examiner  
for the Examining Division

Enclosure(s): 3 page/s reasons (Form 2906)  
JP06089730



The examination is being carried out on the **following application documents**:

**Description, Pages**

1-16 as originally filed

**Claims, Numbers**

1-17 filed with entry into the regional phase before the EPO

**Drawings, Sheets**

1/17-17/17 as originally filed

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1. The following document (D5) is cited by the examiner (see the Guidelines, C-VI, 8.7). A copy of the document is annexed to the communication and the numbering will be adhered to in the rest of the procedure:

D5: JP06089730 (FUJI ELECTRIC CO) 29 March 1994 (1994-03-29)

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**2. Clarity (Art. 84 EPC)**

2.1 The application does not meet the requirements of Article 84 EPC, because claims 1, 14, 15 and 17 are not clear.

2.2 Claims 1 and 17 have been drafted as separate independent claims. Under Article 84 in combination with Rule 29(2) EPC an application may contain more than one independent claim in a particular category only if the subject matter claimed falls within one or more of the exceptional situations set out in paragraphs (a), (b) or (c) of Rule 29(2) EPC. This is not the case in the present application.

2.3 The terms "the first electrode (...)" and "the second electrode (...)" are physically connected" used in claim 15 are vague and unclear and leave the reader in doubt as to the meaning of the technical features to which they refer, thereby rendering the definition of the subject-matter of said claim unclear (Article 84 EPC). The reason is that the independent claim (claim 1) to which claim 15 refers to indicates two electrodes which are therefore necessarily physically separated.

2.4 Claim 14 does not contain any additional feature than claim 1. It should therefore be suppressed.

**3. Novelty (Art. 54 EPC)**

3.1 The present application does not meet the requirements of Article 52(1) EPC, because the subject-matter of



claim 15 is not new in the sense of Article 54(1) and (2) EPC.

3.2 The document D5 discloses (the references in parentheses applying to this document) a fuel cell assembly comprising: a fuel cell having an oxygen electrode (4), a hydrogen electrode (2) and an electrolyte membrane (3), a hydrogen gas channel (7) for supplying fuel gas containing hydrogen to the hydrogen electrode, a first oxidant gas channel (6, left part) for supplying oxidant gas to the oxygen, a second oxidant gas channel (6, right part) and a dehumidifier (30) for dehumidifying the oxidant gas which has passed through the first oxidant gas channel, the dehumidifier being disposed downstream of the first oxidant gas channel and upstream of the second oxidant gas channel.

The subject-matter of claim 15 is therefore not new.

#### 4. Inventive Step (Art. 56 EPC)

4.1 The present application does not meet the requirements of Article 52(1) EPC, because the subject-matter of claims 1, 9, 12, 13 and 14 does not involve an inventive step in the sense of Article 56 EPC.

4.2 The document D5 is regarded as being the closest prior art to the subject-matter of claim 1. Its content was discussed in point 3.2.

The subject-matter of claims 1 and 14 therefore differs from this known from D5 in that there is two air electrodes. The simple modification consisting in "separating" in two parts the air electrode comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can be readily contemplated in advance. Further, it appears that having two electrodes (by separating the electrode 4 of D5 into two parts) will not provide any technical effect.

Therefore, the subject-matter of claims 1 and 14 does not involve an inventive step.

4.3 In claims 9, 12 and 13 slight constructional changes in the fuel cell of claim 1 is suggested which comes within the scope of the customary practice followed by persons skilled in the art, especially as the advantages thus achieved can be readily contemplated in advance. Consequently, the subject-matter of claims 9, 12 and 13 also appears to lack an inventive step.

#### 5. Formal Remarks

5.1 In the description on page 16 the applicant incorporates another document by reference. The content of this referenced document is not considered essential for the invention. Therefore the statement of "incorporated by reference" should be deleted (cf. Guidelines, C-II. 4.18). If however the applicant is of the opinion that essential subject-matter is comprised in the document/s this content should be expressly incorporated in the description to satisfy the requirements of Article 83 EPC.

**Bescheid/Protokoll (Anlage)**

Datum  
Date 10.04.2006  
Date

**Communication/Minutes (Annex)**

Blatt  
Sheet 3  
Feuille

**Notification/Procès-verbal (Annexe)**

Anmelde-Nr.:  
Application No.: 03 791 327.4  
Demande n°:

5.2 For clarity reasons it would be appropriate to indicate what the acronym "PWM" indicated in p. 16, l. 20 refers to.

5.3 The features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 29(7) EPC). This applies to both the preamble and characterising portion (see the Guidelines, C-III, 4.11).

#### 6. Rule 29(2), 27(1) and Art. 123(2) EPC

5.1 The applicant is invited to file new claims which take account of the above comments. Attention of the applicant is drawn to Rule 29(2) EPC.

5.2 To meet the requirements of Rule 27(1)(b) EPC, the document D5 should be identified in the description and its relevant contents should be indicated. The applicant should ensure that it is clear from the description which features of the subject-matter of the independent claim is known from this document.

5.3 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).

In order to facilitate the examination of the conformity of the amended application with the requirements of Article 123(2) EPC, the applicant should clearly identify the amendments carried out, irrespective of whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see Guidelines E-II, 1).

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.